

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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JOE HENRY BANDY, III,

Civil No. 06-173 (JRT/SRN)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

ROBERT FENEIS, CNP, J. SOUTHWICK,  
DENISE BARRGER, RALPH FLESHER,  
DOUGLAS OLSON, and  
CALVIN STENLUND,

Defendants.

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This matter is before the undersigned United States Magistrate Judge on Plaintiff's Motion for Injunctive Relief. (Doc. No. 6.) The matter has been referred to this Court for report and recommendation under 28 U.S.C. § 636 and Local Rule 72.1.

In its Order dated August 11, 2006, the Court deferred ruling on Plaintiff's Motion for Injunctive Relief (Doc. No. 6) because Defendants had not been served with the Complaint. The Court directed the Defendants to respond to Plaintiff's motion after they received service of process.

This Report & Recommendation modifies the August 11, 2006 Order as to Plaintiff's Motion for Injunctive Relief as follows: because Defendants have not been served, the Court recommends that Plaintiff's Motion for Injunctive Relief be dismissed without prejudice. Plaintiff may re-file his motion after having effectuated service of process upon the Defendants.

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's "motion for injunctive relief," (Docket No. 6), be **DISMISSED**  
**WITHOUT PREJUDICE.**

Dated: August 25, 2006

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States Magistrate Judge

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by September 1, 2006, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals.